

Live Pulse Webinar

# Are you sure I need a Will?

Presented by **Paul Flude**

**novia**  
global





**Paul Flude – Attorney**

- Paul Flude is a member of the QB Partners Expert Panel. He is a practising Attorney of the High Court of South Africa (Legal Practice Council of South Africa).
- As Director of Flude & Associates, he is based in the UK and has an office in South Africa.
- Paul has specialised in Private Client work - Wills, Trusts, Estate Planning, Tax, and the winding up of Deceased Estates (Probate) - for 25 years. He acts mainly for South African clients with assets in multiple jurisdictions.



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An aerial night view of a city skyline, likely Dubai, featuring numerous illuminated skyscrapers and a harbor with many boats docked at a marina. The image serves as the background for the presentation slides.

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# The Importance of having a Will

*“Failing to make a Will is selfish; it leaves your family with a financial and personal mess to clear up, it could severely prejudice your business or property interests and even worse, it could have a detrimental effect on your minor children.”*

*- Harry Barker*



# The Importance of having a Will

*“WHERE THERE’S A WILL, THERE’S A RELATIVE”*

*“All other documents can be revised, cancelled, amended, and interpreted by the author, but on death the Will is final.” – Harry Barker*

*Delay = Disappointment, Disaster, Heartache & Tears*

*Common excuses for not doing a Will:*

*Too busy  
Not married  
No children  
Not rich enough  
No budget  
Everything is in Trust  
Not necessary (Law decides)  
My family will divide everything  
Wills only cause trouble  
It’s a morbid chore*





# The Importance of having a Will

No Will

Badly-drafted Will

Will declared invalid

Lost or destroyed Will



INTESTATE

- HUGE STRESS & COMPLICATIONS FOR FAMILY
- FIXED DEVOLUTION OF ASSETS – NO FREEDOM OF TESTATION
- FINANCIAL MESS
- TRACING BENEFICIARIES
- DELAYS (People too busy to devote time - exacerbates problems!)



# The Importance of having a Will

## INTESTACY / INTESTATE ESTATE

- Law dictates a FIXED & ARBITRARY FORMULA for division of Estate
- No scope for personal wishes or different percentages
- Distant blood relatives or the State may benefit
- Spouse / civil partner may not receive a full share or shares with blood relatives
- Children may not receive a full share or hold assets in minor's Trust
- Spouse, children, family & others in legal battle over division of Estate assets, properties, businesses, pension benefits etc
- Executor / Trustee unknown to family – DELAYS & INFLEXIBLE DECISIONS!
- No Guardian of choice for minor children – DELAYS & ANGUISH!
- Bank accounts and business assets could be frozen for lengthy periods
- Increased Estate administration costs, legal, and other costs



**Not having a will  
is a grave mistake.**





# The Importance of having a Will

Having an up to date and valid Will:

*“Peace of Mind”*

Certainty & Clarity – no Intestacy

Minimises delays & costs

Prevents family disputes & third party attacks

Allows multi-generational & multi-jurisdictional planning

Protection & growth of wealth



# The Importance of having a Will

## Does the following apply to you?

- you and your partner are unmarried but own assets jointly;
- you have minor children and need to create a minor's Trust in your Will;
- your nominated Guardians are non-resident in your current country of residence;
- you have a particular family, financial, property, or tax situation (e.g. "blended" families, step-children, unadopted children etc);
- you as a (married) couple have worldwide nett assets in excess of £650,000;
- you have assets in more than one country (particularly immovable property);
- you were born in the UK and have returned to live permanently in the UK;

cont....



# The Importance of having a Will

## Does the following apply to you?

- you want to leave specific cash/property/assets to specific people or charities;
- you own a business or agricultural land;
- you want to appoint professional Executors & Trustees;
- you are about to get married or divorced or have recently divorced;
- your 'family calamity' wishes differ from the Intestate Succession Laws;
- you have lived in multiple countries and unsure about your Domicile & Tax Residence;
- you want to minimise Estate Duty/Inheritance Tax & Capital Gains Tax;
- you want to minimise Estate administration fees & costs.



# What to discuss with clients to include in their Will

*A Will is a personal document in all senses of the word; it moves with you on the path of your life.*

*Your Will must be 'tailor-made' to fit your current individual and financial circumstances and wishes.*

*It is not only YOUR Will, but it is your WILL.*





# What to discuss with clients to include in their Will

Will Questionnaire & Domicile Questionnaire

Holistic Balance Sheet (worldwide assets & liabilities, inheritances etc)

Pension, Life Cover & Beneficiary Nominations (written into Trust?)

Full Family Details & Relationships

Marital Status & applicable Law (Divorce Agreements & Maintenance)

Specific Bequests

Conditional Bequests

Property Bequests (rights of occupation, rental, time frames etc)



# What to discuss with clients to include in their Will

Residuary Estate (who and in what percentages?)

Default / 'Family Calamity' (*per stirpes* or not?)

Executors & Trustees (spouse, family, professional)

Executors' & Trustees' Powers (wide vs narrow)

Will Trusts - income, capital, vesting date(s)

Business assets & succession planning

Guardians, Substitute Guardians & Temporary Carers

Funeral wishes (service, burial, cremation, organ donation)



# What to discuss with clients to include in their Will

Digital & Online assets

Pets

Letter of Wishes (not binding)

Living Will / Advance Decision & Lasting Powers of Attorney

“Road Map” for family & Executors / Trustees

Signature of Wills – format, strict formalities per country

Storage of Wills (destruction & revocation)

Review & Update of Wills (Codicils vs new Will)



# What to discuss with clients to include in their Will

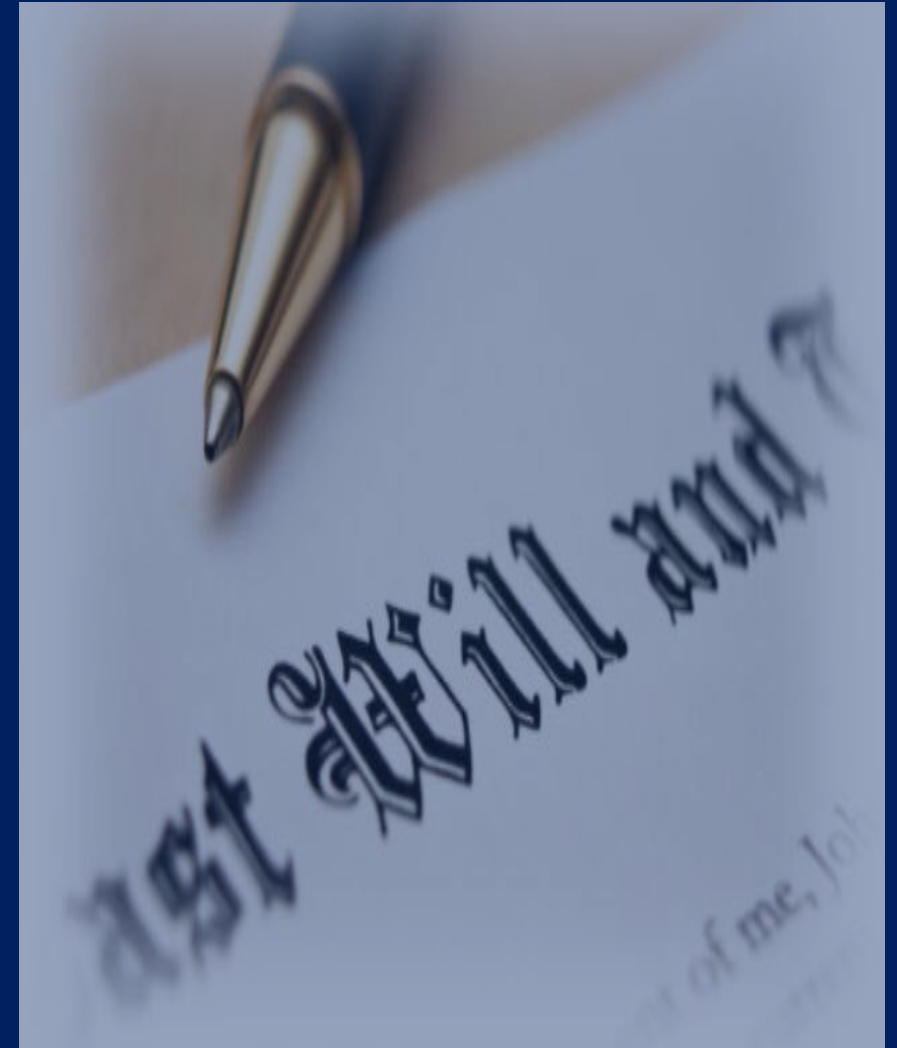
Review of Wills – when & how often?

Regularly - at least on an annual basis (as part of annual review)

Time never stands still – Wills quickly get out of date

- *Change in financial position (for better or worse)*
- *Acquisition or Realisation of substantial assets*
- *Inheritance*
- *Change of residence*
- *Births*
- *Death in the family / named beneficiary or heir*
- *Marriages / Civil Partnerships*
- *Divorce*
- *Change in Tax, Property, Succession & other Laws*

Above have significant & potentially detrimental impact on the validity and 'currency' of a Will





**Paul Flude**

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Given the complex state of most people's lives personally, financially, and geographically and with the ever-changing complex legal, tax, and fiscal landscape, I don't believe there exists anymore the concept of a 'simple Will' in the true sense of the word.

# How Wills can 'unlock' AUM and deepen client relationships

Access to wide range of personal, family & financial information  
(Questionnaires, client & advisor meetings, cash flow forecasting)

People who CARE SINCERELY

People they can TRUST DEEPLY

KNOWLEDGE, INTEGRITY, REPUTATION & EDIFICATION

LONG TERM RELATIONSHIPS  
(Generational Estate, Tax & Financial Planning)

HELPED IN A CRISIS (calm, objective, staying power)

Relationship-driven, problem-solving, solution-driven



# How Wills can ‘unlock’ AUM and deepen client relationships

TAX, IHT & CGT savings  
(spouse exemption, charitable bequests  
NRB, RNRB, BPR, APR, DTA's)

Probate & Estate Administration (speed, skills, trust, inheritances)

Will Trusts and *inter vivos* Family Trusts

Pension Funds, Life Cover, Businesses, Properties etc

“Virtuous Cycle”  
(review, rationalise & grow portfolios)

**“They look after me & my family” vs “They look after my money”**



# How Wills can ‘unlock’ AUM and deepen client relationships

*“A well-drawn and up to date Will ensures that after death the Estate assets are protected and can be distributed quickly to the heirs.”*





# Why having one Will per jurisdiction is important

One “worldwide” Will not advisable

Each jurisdiction has own laws, practices & probate authorities  
(common law, civil law, Sharia law, customary law)

Separate Wills if significant assets in multiple jurisdictions,  
particularly immovable property

Some countries immovable property only transferred to heirs  
by way of a valid Will

Terminology & Legal ‘jargon’ differs

England & Wales, Scotland, Isle of Man, Channel Islands



# Why having one Will per jurisdiction is important

No concept of “Trust” in many countries

Some countries don’t allow Power of Appointment  
(Will fails for want of an heir – partial intestacy)

Jurisdiction-specific Wills & other Wills to ‘dovetail’ together  
(unintended revocation or interpretation problems)

*“Cover the world in Wills”*

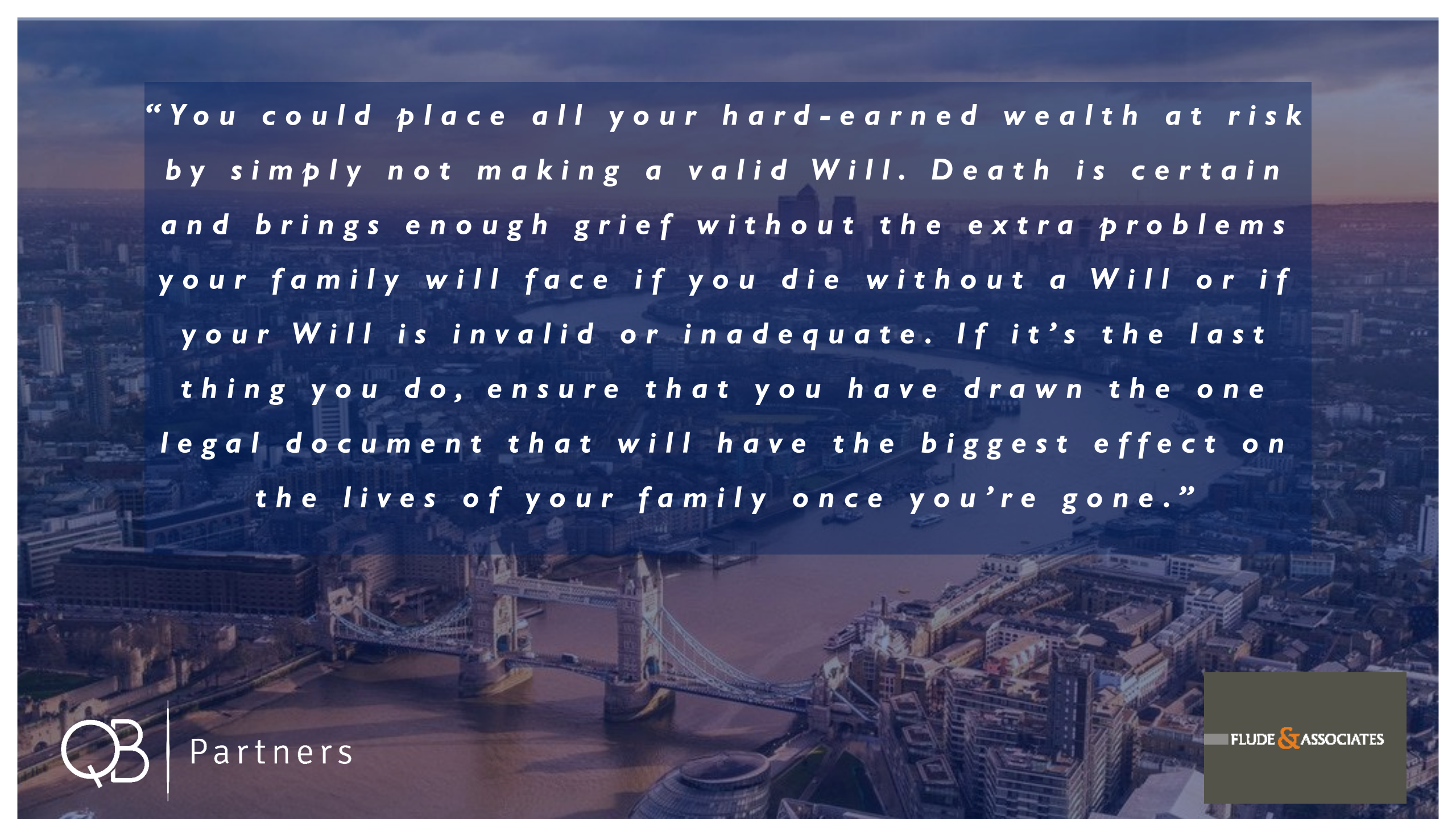
Appointment of local Executors & Trustees  
(asset protection / growth vs devaluation)

Ease of Estate Administration  
(no delays & additional costs – AUM sooner)

‘Ring-fencing’ of assets







*“You could place all your hard-earned wealth at risk by simply not making a valid Will. Death is certain and brings enough grief without the extra problems your family will face if you die without a Will or if your Will is invalid or inadequate. If it’s the last thing you do, ensure that you have drawn the one legal document that will have the biggest effect on the lives of your family once you’re gone.”*



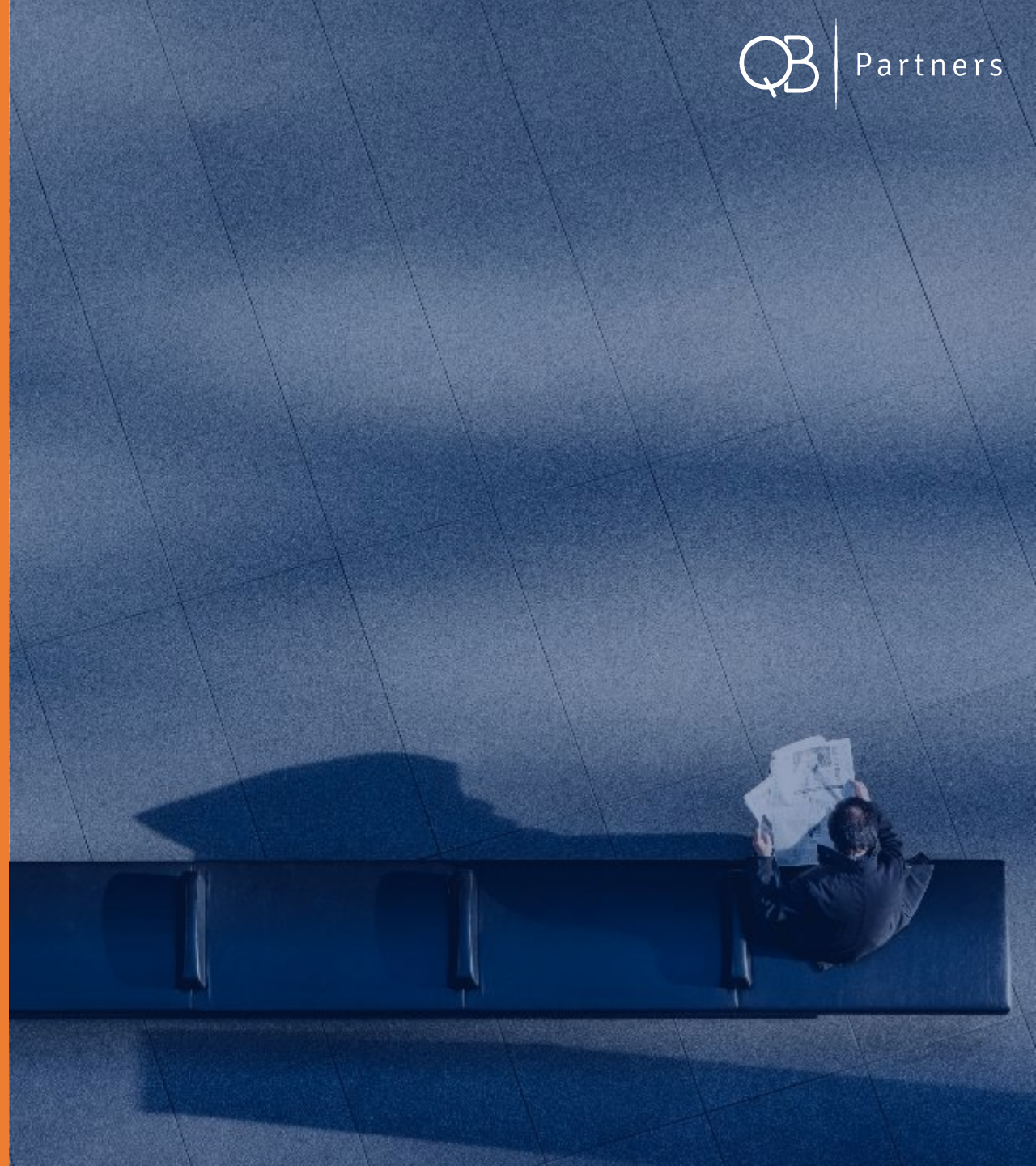
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Some common mistakes

Some Case Studies & Various Examples



**Are you Sure I  
need a Will?**

**Thank You**

**&**

**Questions**



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